

April 1, 2014

**Via ECF**

Mr. Mark Langer  
Clerk of the Court  
United States Court of Appeals for the District of Columbia Circuit  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001

**Re: *AF Holdings, LLC v. Does 1-1058*, No. 12-7135,  
(Argument Set for April 14, 2014 Before  
Circuit Judges Tatel, Silberman and Sentelle)**

Dear Mr. Langer:

Pursuant to Federal Rule of Appellate Procedure 28(j) and Circuit Rule 28(f), Appellant Comcast respectfully submits the attached opinions in *Lightspeed Media Corp. v. Smith*, No. 12-cv-889-DRH-SCW (S.D. Ill. March 24, 2014)(Exhibit A) and *AF Holdings, LLC v. John Does*, No. 12-1445, 12-1446, 12-1447, 12-1449, 12-1449 (D. Minn. Mar. 31, 2013)(Exhibit B). These two opinions were both issued after appellants filed their Reply Brief and after Appellant Verizon filed its March 18, 2014 Rule 28(j) letter. Verizon's letter included earlier decisions in the same *Lightspeed v. Smith* and *AF Holdings v. John Does* cases. Appellants address the issue to which these developments relate in Section V of their Reply Brief.

In the March 18, 2014 letter, Verizon explained how the decision in *Lightspeed Media Corp. v. Smith*, No. 12-889, 2013 WL 6225093 (S.D. Ill. Nov. 27, 2013), *appeal pending* (7<sup>th</sup> Cir.), addressed sanctions against AF Holdings' counsel under 28 U.S.C. § 1927, based on pursuit of frivolous claims. The *Lightspeed* decision submitted here holds AF Holdings' counsel in contempt for willfully refusing to comply with that earlier sanctions order by failing either to remit payment or to

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seek a stay accompanied by a supersedeas bond. *Lightspeed*, slip op. at 8-11, *appeal pending* (7<sup>th</sup> Cir.). As a result, the *Lightspeed* court imposed additional sanctions on counsel to uphold the integrity of the court and to compensate movants for the costs of having to bring the contempt motion. Ex. A at 11-13.

Verizon's March 18, 2014 letter also cited and enclosed the decision by the magistrate judge in *AF Holdings v. John Does*, which issued on November 6, 2013, but was stayed pending review by the district judge. On March 31, 2014, the district judge reversed the magistrate judge, holding that the magistrate exceeded his authority in imposing sanctions under the court's inherent authority, and vacated the prior order that was submitted in Verizon's March 18 letter. Ex. B at 7-8.

Respectfully,

*s/ John D. Seiver*

John D. Seiver  
Counsel for Appellant  
Comcast Cable Communications, LLC

Attachments: Exhibits A and B

cc: All Counsel (via ECF)

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 28(j), the undersigned certifies that the body of the attached letter contains less than 350 words. Counsel relies on the computer program used to generate this letter for the word count.

/s/ John D. Seiver

John D. Seiver